

# Traffic and General Misdemeanors Sentencing Guidelines: DRAFT 7/20/15

	Traffic <sup>1</sup>	No Insurance	Agg. Traffic <sup>2</sup>	Infractions	General Class C	General class B
Fine	Fine schedule <sup>3</sup>	Fine schedule	Fine Schedule	Fine schedule	Fine schedule	Fine schedule
Other Conseq	None	None	Defensive driving Recommend Suspension Refer for fitness	None	<sup>4</sup> Low: None Med: Ass High Ass	Low: None Med: Ass High Ass
Jail	None	1st:None +1: 0-10	0-30 <sup>5</sup>	None	none	low none med 0-30 high 0-60
Probation <sup>6</sup>	None	none		None <sup>7</sup>	None <sup>8</sup>	low none 0-12 months

<sup>1</sup> The Sentencing Commission recommends that the Legislature recodify all simple traffic (and boating) offenses in Title 41, Chapter 6a and Title 73 Chapter xx, (and local ordinances regulating similar conduct) that are listed as class c misdemeanors, as infractions. These are strict liability regulatory offenses and should not carry jail consequences. Other direct and collateral consequences (points accumulation, license suspension) available in this highly regulated area and a financial consequence, are sufficient consequences. Should the legislature choose to retain some offenses as Class C Misdemeanors, those should be tailored to reflect direct threats to public safety ie Careless Driving; Speeding in a school zone, or 30+; causing death or serious bodily injury as a result of some improper operation of a motor vehicle.

<sup>2</sup> Moving violations such as reckless, leaving the scene, careless, etc.

<sup>3</sup> The Sentencing Commission recommends the court impose the recommended fine for the most serious offense convicted. If the court believes further financial sanctions are required for multiple offenses, the Commission recommends at most 10% of the standard fine for each subsequent charge. This reflects two factors. First the uniform fine schedule is silent as to whether fines should be cumulative; and second, defendants who appear at arraignment are more likely to suffer a hardship than those who seek to negotiate at a pre-trial disposition.

<sup>4</sup> Offender Risk Level as determined using a 4th generation risk tool. The use of these screenings, is largely why this matrix does not expressly account for prior offenses, because the existence or lack of those priors will be reflected in a defendant's risk level. For first time offenders where the court cannot or will not get a risk assessment before sentencing, default to low for property and order offenses, and medium for crimes involving threats or injury to persons.

<sup>5</sup> Only for most egregious violations. Sentencing Commission recommends no more than 3 days where behavior modification is the goal of Sentencing.

<sup>6</sup> Where the only term of a sentence is a fine, probation would be inappropriate. Sufficient avenues exist to collect criminal accounts receivable (OSDC). Threat of jail should not be used to coerce collection of a criminal accounts receivable. Further, new offenses will be sanctioned by the court handling those charges. The Sentencing Commission recommends that the Legislature remove criminal accounts receivable from probation terms under 77-18-1, with the exception of court ordered restitution.

<sup>7</sup> Unless there is court ordered restitution to monitor. The Sentencing Commission recommends that the Legislature remove traffic infractions from the definition of "criminal activity" for purposes of restitution, codifying the rule of State v. Robinson.

<sup>8</sup> Unless there is court ordered restitution to a victim to monitor.